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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,614	12/30/2003	Brian Alan Grove	2043.033US2	9853
.,	7590 03/24/201 N, LUNDBERG & WO	EXAMINER		
P.O. BOX 2938 MINNEAPOLIS, MN 55402			FADOK, MARK A	
MINNEAFOLI	.5, MIN 55402	ART UNIT	PAPER NUMBER	
		3625		
			NOTIFICATION DATE	DELIVERY MODE
			03/24/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM request@slwip.com

Advisory Action Before the Filing of an Appeal Brief

Applicant(s)		
GROVE ET AL.		
Art Unit		
3625		
	GROVE ET AL. Art Unit	

The MALINB DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 26 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following reples: (1) an amendment, efficient, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal feel jin compliance with 37 CFR 1.131, or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.134. The reply must be filed within one of the following time		MARK FADOK	3625					
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 1. ■ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must itsely file one of the following replies: (1) an amendment, affidate, or other evidence, with places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expires 2 months from the mailing date of the final rejection. b) The period for reply expires 2 months from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FIRM REJECTION. See MFEP 705.07(1). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee narred by the date for purposes of determining the period of detension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.176(a) is calculated from: (1) the expiration date of the shortened study period for reply originally set in the final Office action; (c) as many roduce any example part of the shortened study period for reply originally set in the final Office action; (c) as many roduce any example part of the final rejection, even if three pitch and the malphashment. See 37 CFR 1.174(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137(e)), to evoid dismissal of the appeal. Since a Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). The Protice of Appeal (a) and the sample of the protice of the filed within two months of the appeal. Since a Notic	THE REPLY FILED 26 February 2010 FAILS TO PLACE THIS	APPLICATION IN CONDITION FO	R ALLOWANCE.					
no nevent, however, will be statutory period for reply expired into the statutory period for reply expire later than St MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS GFT THE FINAL RELECTION See MPEP 766 07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for projeces of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the malling date of the final rejection, even if smelly filed, may reduce any semed patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) □ They raise new issues of new matter (see NOTE below); (c) □ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) □ They raise the issue of new matter (see NOTE below); (e) □ They raise not deemed to place the application in better form for appeal by materially rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). □ The proposed of appeal, the proposed amendment(s): a ② will not	1. The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Apperfor Continued Examination (RCE) in compliance with 37 C	the same day as filing a Notice of A replies: (1) an amendment, affidavi al (with appeal fee) in compliance	Appeal. To avoid abar t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.17(a) is calculated from: (1) the expiration date of extension and the corresponding amount of the rine appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the rine appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for repty originally set in the final Office action; or (2) as set for in (b) above, if checked, Any repty received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL 2. The Notice of Appeal was filed on	b) The period for reply expires on: (1) the mailing date of this Arno event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (lies).	dvisory Action, or (2) the date set forth hter than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection	n.				
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☑ Applicant's reply has overcome the following rejection(s): See Continuation Sheet. 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) objected to:	Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
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(c)	(a) ☑ They raise new issues that would require further cor	nsideration and/or search (see NO		cause				
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8. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed:			mpliant Amendment (l	PTOL-324).				
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 1,2,8,26,27,29,34,35,41,59,60 and 66. Claim(s) withdrawn from consideration: 3-7,9-20,28,30,31,34,36-40,42-53,61-65 and 67-78. AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (Mark Fadok/	6. Newly proposed or amended claim(s) would be all		timely filed amendmer	t canceling the				
Claim(s) rejected: 1.2.8.26.27.29.34.35.41.59.60 and 66. Claim(s) withdrawn from consideration: 3-7.9-20.28.30.31.34.36-40.42-53.61-65 and 67-78. AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.							
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in the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s) 13. ☐ Other: /Mark Fadok/	REQUEST FOR RECONSIDERATION/OTHER		•					
13. ☐ Other: /Mark Fadok/	11. The request for reconsideration has been considered but	does NOT place the application in	condition for allowan	ce because:				
	, , ,	PTO/SB/08) Paper No(s)						
Primary Examiner, Art Onit 3025		/Mark Fadok/ Primary Examiner, Art U	Init 3625					

Continuation of 5. Applicant's reply has overcome the following rejection(s): The double patenting rejection has been obviated with the submission of the Terminal Disclaimer..